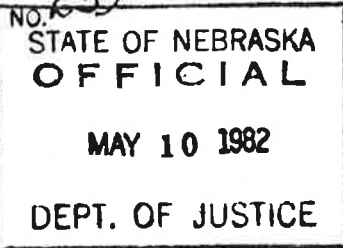


DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

TELEPHONE 402/471-2682 • STATE CAPITOL • LINCOLN, NEBRASKA 68509



May 7, 1982

PAUL L. DOUGLAS  
Attorney General  
GERALD S. VITAMVAS  
Deputy Attorney General  
JOHN R. THOMPSON  
Deputy Attorney General

SUBJECT: County powers; authority to build  
UHF television facility

REQUESTED BY: Richard H. Jensen, Garden County  
Attorney, Oshkosh, Nebraska

OPINION BY: Paul L. Douglas, Attorney General  
Mel Kammerlohr, Assistant Attorney General

QUESTION: Does the general grant of powers  
contained in Neb.Rev.Stat. §23-104  
(Reissue 1977) or any other statutory  
provisions allow the county to purchase,  
construct, and maintain a translator  
facility for the benefit of county  
residents?

CONCLUSION: No.

As you stated in your letter, there is no statute authorizing the county to engage in the construction of a UHF translator facility. You then inquire if the general grant of powers in Neb.Rev.Stat. §23-104 (Reissue 1977) or other statutes would authorize the county to so act.

In State ex rel. Johnson v. County of Gage, 154 Neb. 822, 49 N.W.2d 672 (1951), a suit brought to enjoin the county from selling crushed rock produced and owned by it to the general public, the Supreme Court of Nebraska stated:

A county in this state is a creature of statute and has no inherent authority. It has only such powers as are expressly conferred upon it by statute, and such as are incidentally indispensable to carry into effect those expressly granted it. A grant of power to a county is strictly construed, and any fair and reasonable doubt of the existence of the power is resolved against the county. Speer v. Kratzenstein, 143 Neb. 300, 9 N.W.2d 306. [Citations omitted.]

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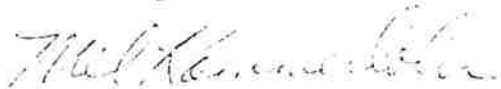
Mr. Richard H. Jensen  
May 7, 1982  
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The Supreme Court has consistently followed this line of reasoning.

We therefore are of the opinion that the county does not have the authority to purchase, construct, or maintain a UFH translator facility for the benefit of the county residents.

Very truly yours,

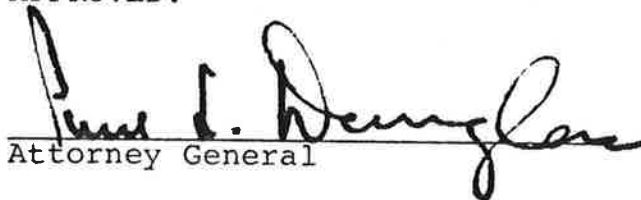
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APPROVED:

  
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